



WASHINGTON, D.C. 20503

February 23, 1983

83-01535

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer-  
National Security Council  
✓ Central Intelligence Agency

*W/ GMC concurrence*  
*NOB'd to OMB*  
*25 FEB 1983*

STAT

SUBJECT: Defense draft proposal 98-97, "To amend title 10 United States Code, to place the Chairman of the Joint Chiefs of Staff in the national military chain of command, and to remove limitations on the Joint Staff of the Joint Chiefs of Staff."

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than WEDNESDAY, MARCH 23, 1983.

Questions should be referred to Tracey Lawler (395-4710), the legislative analyst in this office,

*Ronald K. Peterson*  
RONALD K. PETERSON FOR  
Assistant Director for  
Legislative Reference

Enclosures  
cc: Hilda Schreiber (FYI)  
Tom Stanners



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D.C. 20301

18 FEB 1983

Honorable David A. Stockman  
Director, Office of Management  
and Budget  
Washington, D.C. 20503

Dear Mr. Stockman:

The attached legislative proposal, DOD 98-97, "To amend title 10, United States Code, to place the Chairman of the Joint Chiefs of Staff in the national military chain of command, and to remove limitations on the Joint Staff of the Joint Chiefs of Staff," is forwarded for review in accordance with Office of Management and Budget Circular A-19.

Advice is requested as to the relationship of the proposal to the program of the Administration.

It is requested that this proposal be given expeditious treatment.

Sincerely,

A handwritten signature in dark ink, appearing to read "William H. Taft, IV".

William H. Taft, IV

Enclosure



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D.C. 20301

Honorable Thomas P. O'Neill, Jr.  
Speaker of the House of Representatives  
Washington, D.C. 20515

Dear Mr. Speaker:

Enclosed is a draft of proposed legislation, "To amend title 10, United States Code, to place the Chairman of the Joint Chiefs of Staff in the national military chain of command, and to remove limitations on the Joint Staff of the Joint Chiefs of Staff."

This proposal is part of the legislative program of the Department of Defense for the 98th Congress. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress. It is recommended that the proposal be enacted by the Congress.

Purpose of the Legislation

The purpose of the proposed legislation is twofold. The proposal would place the Chairman of the Joint Chiefs of Staff in the national military chain of command, and would promote the efficiency of the Joint Staff by eliminating statutory restrictions that are disadvantageous to the effectiveness of that organization.

Presently, the Chairman of the Joint Chiefs of Staff is the central figure in military planning; the rendering of military advice to the President, the National Security Council, and the Secretary of Defense; and the execution of orders emanating from the President as the Commander in Chief.

The Chairman of the Joint Chiefs of Staff manages the Joint Staff and its Director on behalf of the Joint Chiefs of Staff. 10 U.S.C. §143(c)(1976). The Chairman presides over the Joint Chiefs of Staff, 10 U.S.C. §142(b)(1)(1976); and he communicates, at the direction of the President or the Secretary of Defense, orders to the commanders of the unified and specified combatant commands.

The purpose of the proposed legislation with respect to the Chairman is to make explicit his functions as a link between the Secretary of Defense and the unified and specified combatant commands. The Department of Defense Reorganization Act of 1958, Pub. L. No. 85-599, §5(b), 72 Stat. 514, 518, amended the National Security Act of 1947, ch. 343, §202, 61 Stat. 495, 500 (as amended 1949, 1950; current version of §202(j) at 10 U.S.C. §124 (1976)) to make explicit the pattern of establishment, composition, functions, administration, and support of the unified and specified commands in relation to the Military Departments, which assign the forces to these combatant commands. 10 U.S.C. §124(c)(1976) provides that these commands are responsible to the President as Commander in Chief, and to the Secretary of Defense, who is the "principal assistant to the President in all matters relating to the Department of Defense," 10 U.S.C. §133(b)(Supp. V 1981). The method of communicating with the combatant commands was not specified by statute. The practice has been for the Secretary of Defense to communicate with the combatant commands through the Chairman of the Joint Chiefs of Staff, and the proposed legislation would formalize this arrangement by making appropriate amendments to sections 124(c), 142(b), and 142(c) of title 10, United States Code.

The other portion of the legislative proposal is designed to make the Joint Staff a more effective instrumentality by easing or eliminating restrictions that reduce its efficiency. Thus, the bill would enhance continuity in the Staff by amending section 143(a) of title 10 and adding a section 143(e), to increase the maximum peacetime tour of duty on the Staff from three to four years. In addition, these amendments would provide that officers could be reassigned to the Joint Staff during peacetime two years after a previous tour of duty on the Staff. Currently, a minimum interval of three years between assignments on the Staff applies during peacetime, and the Secretary of Defense may make exceptions to this minimum interval for only up to 30 officers serving on the Staff at any one time.

Similarly, the bill would amend section 143(b) of title 10 and add section 143(e) to extend the maximum peacetime tour of duty of the Director of the Joint Staff from three to four years, and to remove the prohibition against reassignment of the Director to the Staff in peacetime after completion of his tour. These changes would contribute to greater institutional stability and afford the Government the full use of those officers who have demonstrated a high level of competence in staff work.

In addition, the legislative proposal would amend section 143(a) of title 10 to remove the limit of 400 officers on the size of the Joint Staff. In the context of a continuously increasing workload, greater demands for sophisticated military planning, and the organization of our combatant forces into unified and specified commands, arbitrary numerical limitations are no longer appropriate. In the case of the Joint Staff, as well as other assignments to duty, the goal should be the wisest use of military manpower among competing requirements, with due recognition to the increasingly joint utilization of personnel in the combatant commands.

#### Cost and Budget Data

Enactment of this legislation would cause no increase in budgetary requirements for the Department of Defense.

Sincerely,

Enclosures

A BILL

To amend title 10, United States Code, to place the Chairman of the Joint Chiefs of Staff in the national military chain of command, and to remove limitations on the Joint Staff of the Joint Chiefs of Staff.

1       Be it enacted by the Senate and House of Representatives  
2       of the United States of America in Congress assembled, That  
3       section 124 of title 10, United States Code, relating to  
4       combatant commands, is amended --

5       (1) by striking out "shall" in clause (2) of  
6       subsection (a); and

7       (2) by adding at the end of subsection (c) the  
8       following new sentences:

9               "The chain of command runs from the President  
10              to the Secretary and through the Chairman,  
11              Joint Chiefs of Staff, to the combatant commands.  
12              Orders to combatant commands shall be issued by the  
13              President or the Secretary through the  
14              Chairman, Joint Chiefs of Staff."

15       SEC. 2. Section 142 of title 10, United States Code,  
16       relating to the Chairman of the Joint Chiefs of Staff, is amended --

17       (1) in subsection (b) --

18              (A) by striking out "and" at the end of clause (2);

19              (B) by striking out the period at the end of clause (3)  
20       and inserting in lieu thereof ";and"; and

1 (C) by adding after clause (3) the following  
2 new clause:

3 "(4) serve in the national military chain  
4 of command pursuant to section 124(c) of this title."; and  
5 (2) in subsection (c) by inserting ", except as  
6 provided by section 124(c) of this title, over" immediately  
7 after "or" in the second sentence.

8 SEC. 3. Section 143 of title 10, United States Code,  
9 relating to the Joint Staff, is amended --

10 (1) in subsection (a) --

11 (A) by striking out "consisting of not more  
12 than 400" in the first sentence and inserting in lieu  
13 thereof "of"; and

14 (B) by striking out the last three sentences  
15 and inserting in lieu thereof the following: "The  
16 tenure of the members of the Joint Staff is subject  
17 to the approval of the Chairman of the Joint Chiefs  
18 of Staff.";

19 (2) in subsection (b) by striking out the second  
20 and third sentences; and

21 (3) after subsection (d) by adding the following  
22 new subsection:

23 "(e) No officer who is assigned or detailed  
24 to duty on the Joint Staff may serve for a tour of  
25 duty of more than four years. However, the Secretary  
26 of Defense may extend such a tour of duty if he finds

1       that the extension is necessary in the public interest.  
2       No officer may be assigned or detailed to duty on  
3       the Joint Staff within two years after relief from  
4       that duty except upon a finding by the Secretary of Defense  
5       that the assignment or detail is necessary in the public  
6       interest. This subsection does not apply in time  
7       of war declared by Congress or of national emergency  
8       declared by the President.".



## SECTIONAL ANALYSIS OF A BILL

"To amend title 10, United States Code, to place the Chairman of the Joint Chiefs of Staff in the national military chain of command, and to remove limitations on the Joint Staff of the Joint Chiefs of Staff."

### SEC. 1.

Clause (1) strikes out as surplusage "shall" in section 124(a)(2) of title 10, United States Code. This results in no substantive change in the existing statute.

Clause (2) amends section 124(c) of title 10 to insert the Chairman of the Joint Chiefs of Staff into the national military chain of command. Thus, the chain of command would run from the President to the Secretary of Defense to the Chairman of the Joint Chiefs of Staff to the commanders of the unified and specified combatant commands.

### SEC. 2.

Clause (1) provides for a new clause (4) in section 142(b) of title 10, United States Code, to specify that the duties of the Chairman of the Joint Chiefs of Staff include serving in the national military chain of command in accordance with section 124(c) of title 10, as amended by clause (2) of section 1 of the bill.

Clause (2) amends section 142(c) of title 10, to make clear that the duty of the Chairman of the Joint Chiefs of Staff to serve in the national military chain of command in accordance with section 124(c) of title 10, as amended by clause (2) of section 1 of the bill, is an exception to the prohibition in section 142(c) against the Chairman's exercising military command over any of the armed forces.

### SEC. 3.

Clause (1) amends section 143(a) of title 10, United States Code, to delete the limit of 400 officers on the size of the Joint Staff. Clause (1) also amends section 143(a) to delete the limit of three years on the peacetime tenure of members of the Joint Staff, and to delete peacetime restrictions on assignment of an officer to the Joint Staff within three years after completion of a previous tour of duty on that Staff. The restrictions on tenure and reassignment that are eliminated by clause (1) are replaced by the restrictions in section 143(e) of title 10, as added by clause (3) of section 3 of the bill.

Clause (2) amends section 143(b) of title 10 to delete the limit of three years on the peacetime tenure of the Director of the Joint Staff, and to delete the prohibition on reassignment of the Director to the Joint Staff during peacetime after completion of his tour of duty. The restriction on tenure and prohibition on reassignment that are eliminated by clause (2) are replaced by the restrictions in section 143(e) of title 10, as added by clause (3) of section 3 of the bill, since the Director of the Joint Staff is an officer who is assigned or detailed to duty on the Joint Staff within the meaning of the new section 143(e).

Clause (3) amends section 143 of title 10 by adding a new subsection (e), which provides that the maximum tour of duty of an officer on the Joint Staff shall be four years, and that no officer may be reassigned to the Joint Staff within two years after relief from duty on the Staff. The Secretary of Defense may waive these restrictions if he finds that a waiver is necessary in the public interest. Section 143(e) does not apply during a war declared by Congress or a national emergency declared by the President.